

JOSEPH P. RUSSONIELLO (CSBN 44332)
United States Attorney

BRIAN J. STRETCH (CSBN 163973)
Chief, Criminal Division

SUSAN KNIGHT (CSBN 209013)
Assistant United States Attorney

150 Almaden Blvd., Suite 900
San Jose, California 95113
Telephone: (408) 535-5056
FAX: (408) 535-5066
Susan.Knight@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

ALFONSO MONTALVO,
a/k/a/ Jose Portillo

Defendant

No. 08-70321 PVT

STIPULATION AND ~~PROPOSED~~
ORDER EXCLUDING TIME UNDER
RULE 5 AND THE SPEEDY TRIAL ACT

SAN JOSE VENUE

On June 19, 2008, the undersigned parties appeared before the Court for a preliminary hearing and arraignment. Assistant Federal Public Defender Manuel Araujo served as counsel for the defendant. The parties then requested that the arraignment be rescheduled for July 24, 2008 at 9:30 am in order to afford Mr. Araujo an opportunity to review the discovery in the case, consult with the defendant, and consider a possible disposition. The defendant, through Mr. Araujo, agreed to waive time under Rule 5 of the Federal Rules of Criminal Procedure and the Speedy Trial Act from June 19, 2008 to July 24, 2008. The parties agree and stipulate that an exclusion of time is appropriate based on the defendant's need for effective preparation of

STIPULATION AND [PROPOSED] ORDER
No. 08-70231 PVT

FILED
JUN 24 2008
CLERK OF COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

06/23/2008 11:30 FAX 408 291 7399

FEDERAL PUBLIC DEFENDER → US ATTY A

Jun 23 2008 11:14am

009

US ATTORNEY OFFICE Fax

Jun 19 2008 01:25pm P005/005

counsel.

SO STIPULATED:

JOSEPH P. RUSSONIELLO
United States Attorney

DATED: 6/19/08

/s/
SUSAN KNIGHT
Assistant United States Attorney

DATED: 6/19/08

/s/
MANUEL ARAUJO
Counsel for Mr. Montalvo

Accordingly, the Court HEREBY ORDERS that the preliminary hearing or arraignment is continued to July 24, 2008 at 9:30 a.m. Good cause is shown and the continuance is proper under Rule 5 of the Federal Rules of Criminal Procedure and 18 U.S.C. § 3060.

For good cause shown, the Court FURTHER ORDERS that time be excluded under the Speedy Trial Act from June 19, 2008 through July 24, 2008. The Court finds, based on the aforementioned reasons, that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant the requested continuance would deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. The Court therefore concludes that this exclusion of time should be made under 18 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

SO ORDERED.

DATED: 6/24/08


RICHARD SEEBORG
United States Magistrate Judge